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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0093; Notice 1]

Grote Industries, LLC, Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT)

ACTION: Receipt of Petition

SUMMARY: Grote Industries, LLC (Grote), has determined that certain Grote bulk nylon air brake tubing manufactured during the period December 2013 to March 2014 does not fully comply with paragraph S11.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 106; *Brake Hoses*. Grote has filed an appropriate report dated June 13, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.

Department of Transportation, Docket Operations, M-30,

West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.

- Hand Deliver: Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no
greater than 15 pages in length, although there is no limit to
the length of necessary attachments to the comments. If comments
are submitted in hard copy form, please ensure that two copies
are provided. If you wish to receive confirmation that your
comments were received, please enclose a stamped, self-addressed
postcard with the comments. Note that all comments received will
be posted without change to <http://www.regulations.gov>,
including any personal information provided.

Documents submitted to a docket may be viewed by anyone at
the address and times given above. The documents may also be

viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Grote's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Grote submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Grote's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Equipment Involved: Affected are approximately 869 spools of Grote nylon air brake tubing that was manufactured during the period December 2013 to March 2014.

III. Noncompliance: Grote explains that the noncompliance is that, due to a production error, the affected air brake tubing is not properly marked in accordance with paragraph S11.2.1(a) of FMVSS No. 106, which requires plastic air brake tubing to be marked with a designation that identifies the manufacturer of the tubing. In addition, some of the tubing also does not comply with paragraph S11.2.1(e) of FMVSS No. 106 which requires plastic air brake tubing to be marked with the letter "A" to indicate intended use in air brake systems. Specifically, all of the subject brake tubing was mismarked with the number "1913" in addition to "GROTE" and some of the tubing was also mismarked with the letter "B," instead of the letter "A."

IV. Rule Text: Paragraph S11.2 of FMVSS No. 106 requires in pertinent part:

S11.2 Labeling.

S11.2.1 Plastic air brake tubing. Plastic air brake tubing shall be labeled, or cut from bulk tubing that is labeled, at intervals of not more than 6 inches, measured from the end of one legend to the beginning of the next, in block capital letters and numerals at least one-eighth of an inch high, with the information listed in paragraphs (a) through (e) of this section. The information need not be present on tubing that is sold as part of a motor vehicle.

(a) The symbol DOT, constituting a certification by the hose manufacturer that the hose conforms to all applicable motor vehicle safety standards. ...

(e) The letter "A" shall indicate intended use in air brake systems.

V. Summary of Grote's Analyses: Grote stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

Grote believes that these labeling noncompliances are inconsequential to motor vehicle safety because both the manufacturer designation and the intended use are otherwise clearly marked on the tubing.

Grote stated its belief that the purpose of the manufacturer identification requirement is to permit identification of products in the event of a product recall. If a recall of the subject air brake tubing was to become necessary the affected tubing could easily be identified by the GROTE name, which is conspicuously marked on all of the affected tubing.

Grote also stated its belief that the manufacturer associated with the identification number "1913" has not existed since 1977 and are are not aware of any manufacturer currently marketing air brake tubing under the "Samuel Moore" brand¹.

¹ After receiving Grote's petition, based on a submission from Eaton Corporation, NHTSA revised its records to indicate that the brake hose manufacturer identification "1913" ceded to Eaton Corporation due to its acquisition of Moore, Samuel, and Company, Synflex Division.

The purpose of the "A" letter designation requirement is to indicate that the product is intended for use in air brake applications. As noted above, some of the products are marked as "SAE J844 Type B" instead of the letter "A." Type B tubing is an SAE J844 designation that identifies reinforced air brake tubing. This designation is widely recognized among truck maintenance and service personnel. Regardless, the subject hose is also clearly and prominently marked with the phrase, "GROTE AIR BRAKE," eliminating any possible confusion or misunderstanding as to the intended application of the product.

In addition, Grote stated its belief that NHTSA has made analogous inconsequentiality determinations in similar situations related to other products where a required label was missing, but the product contained other markings that conveyed the same or similar information. See *Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35357 (June 12, 2013); *Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance*, 71 FR 4396 (Jan. 26, 2006); and *Delphi Corporation, Grant of Petition for Decision of Inconsequential Noncompliance*, 69 FR 41331 (July 8, 2004).

Grote also informed NHTSA that it has corrected the noncompliance so that all future production nylon air brake tubing will comply with FMVSS No. 106.

In summation, Grote believes that the described noncompliance of the subject nylon air brake tubing is inconsequential to motor vehicle safety, and that its petition, to exempt Grote from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject equipment that Grote no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant equipment under their control after Grote notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at
49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Acting Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P

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